

Notice of Allowability

Application No.

09/787,413

Examiner

Rip A. Lee

Applicant(s)

AUWETER ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to January 29, 2004.
2. ☒ The allowed claim(s) is/are 12-16.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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DETAILED ACTION

This office action follows a response filed on January 29, 2004. Applicants have amended claim 12 to incorporate subject matter deemed allowable in the previous office action. Claims 1-11, 17, and 18 have been canceled. Claims 12-16 remain.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 14, line 2 replace open parenthesis “ (” with a comma “ , ”

Claim 14, line 2 replace close parenthesis “) ” with a comma “ , ”

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Claims 12-16 are allowable over the closest reference, U.S. Patent No. 5,049,322 to Devissaguet *et al.*

The present invention relates to a process for preparing dye-containing particles comprising preparing a solution of water-insoluble polymer dissolved in a water-miscible organic solvent and continuously mixing in a static mixing nozzle the dye/polymer solution with an aqueous phase at rates sufficient to precipitate dye-containing polymer particles having a size of 5-500 nm and a particle size distribution width of $\leq 40\%$.

Devissaguet *et al.* discloses a method of precipitating dye containing polymer particles dissolved in water-miscible organic solvent by adding the solution to water as the non-solvent, resulting in the formation of pigment particles having size less than 500 nm. The difference between the prior art method and that presently claimed is the method of mixing solutions of different phase: Devissaguet *et al.* teaches simple mixing of two solutions, but it does not teach use of static mixing at a rate sufficient to produce the claimed distribution of particles, and according to the declaration under submitted under 37 U.S.C. § 1.132, Applicants have shown that the claimed process is markedly different from that described in the prior art. As such, the products of the present invention exhibit a particle size distribution width, or variance, of less than 40 %. Arriving at a process in which such particles are obtained would not have been obvious to the skilled artisan based on the teachings of Devissaguet *et al.*

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

ral

April 12, 2004



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